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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/720,293  | 11/24/2003  | Bruce Bower          | QT-2003-09-NP       | 4124             |
| 7590  | 04/30/2004  |                      | EXAMINER            |                  |
| Michael G. Crilly, Esq.<br>104 South York Road<br>Hatboro, PA 19040 |             |                      | EASTHOM, KARL D     |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2832                |                  |

DATE MAILED: 04/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                 |              |
|------------------------------|-----------------|--------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s) |
|                              | 10/720,293      | BOWER ET AL. |
| Examiner                     | Art Unit        |              |
| Karl D Easthom               | 2832            |              |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
**THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 31 March 2004.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 3-6,8 and 9 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2 and 7 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

1. Applicant's election without traverse of Claims 1-2 and 7 in the paper filed 3/31/4 is acknowledged.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by DuRocher. DuRocher discloses the claimed invention at Fig. 11 with two electrodes 51, isolator 13, pressure plate 50, and actuator - the screws 53. That is, the screws can be adjusted to exert pressure which necessarily moves the plates 50 together, see col. 8, lines 5-17. The composite 12 at Fig. 11 is seen contacting the electrodes, isolator and pressure plate. See also Fig. 9 for a similar disclosure. As an alternative, the actuator device 27 at Fig. 4 for example could be used with the body at Fig. 11, where col. 6, lines 45-50 discloses using any of the several bodies with the device. For claim 2, see col. 4, lines 15-20, or col. 3, lines 45-65, disclosing a foamed body which is inherently porous.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Dublier. Dublier discloses the claimed invention at Fig. 18 with two electrodes 69, 31, isolator 66, pressure plate 70, composite 11, and actuator 65, 62. The plate 69/70 is moveable for example such as when one loosens or tightens the actuator 65. The plate part 70 appears to touch or contact composite 11.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

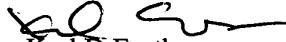
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over DuRocher in view of Poirier et al. The claimed invention is disclosed above except the actuator being a shape memory alloy. Poirier at Col. 15, lines 14-36 discloses such a spring memory alloy that is a useful replacement for a spring such as that of Dublier because it has good spring action while good memory for returning, where Dublier employs a spring 43 at Fig. 4 to actuate a current controller, as does Poirier, such that it would have been obvious to employ such an alloy to form good spring action that returns to a normal position and would allow current control.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl D Easthom whose telephone number is (571) 272-1989. The examiner can normally be reached on M-Th, 5:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Karl D Easthom  
Primary Examiner  
Art Unit 2832

KDE